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SUPREME COURT, U.S.

No. 07-764

In The

SUPREME COURT OF THE UNITED STATES

VIRGINIA D. HATCH, BILLY F. HATCH

Petitioners

v.

RALPH J. HARPLEY

Respondent

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Eleventh Circuit

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PETITION FOR REHEARING

Virginia D. Hatch, Billy F. Hatch
Petitioners, Pro Se
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QUESTIONS PRESENTED

1. Whether the opinions issued by the U.S. Circuit Court of appeals in regards to Bankruptcy procedures that constituted a clear split of authority not only among Circuits but among the judges within the Circuits violates the provisions of *Northern Pipeline v. Marathon Pipeline* and 28 USC 157.

2. Whether 28 USC 581-589 is unconstitutional as written and as being administered by the courts and the U. S. Attorneys in America and by the U. S. Trustees, and encourages abuse of process which is a crime under 18 USC 241 and 242.

3. Whether Bankruptcy Courts have unlimited "ancillary jurisdiction" to reopen bankruptcy cases and can do so by evoking so called "piggy back jurisdiction" as done in this case. Likewise the so called "doctrine of necessity" a.k.a. "equitable mootness" that is frequently used to defeat objections to collection efforts after the funds are hurriedly paid out and legal fees accessed.

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PETITION FOR REHEARING

Pursuant of Rule 44.2, Petitioners respectfully petitions this court for rehearing.

ARGUMENT

This petition for rehearing is intended to clarify arguments advanced in the original petition for certiorari.

The underlying issues herein under review is that of administering of the Bankruptcy Code by the appointed panel trustees and their hired lawyers and the apparent disregard by the judges for the provisions of *Marathon* and the United States Code.

This petition for rehearing is not submitted as an empty formality and the previous denial of certiorari should not be prejudicially treated as a definitive determination, subject to all the circumstances of such an interpretation. Therefore, now the petitioners make appropriate showing that substantial matters are presented on rehearing and appropriate opportunity should be given for doing so. The respondents failed to respond to the initial writ and also failed to attempt to file a waiver of response.

The silence of the respondents speaks volumes about the merits of their posture and simply put, they do not have a valid comeback to the questions presented in this case.

Petitioners respectfully submits that the instant case offers an excellent opportunity for this court to affirm its historic mandates in *Marathon* and correct the misuse of the Bankruptcy Code as simply a collection agency by the ring of Bankruptcy Judges and lawyers to create as many legal fees as possible at outlandish contingency rates of 40% to 50% and as much as $10,500 per page document. Their sole purpose is to milk Bankruptcy estates of as much as possible by creating false claims, encouraging continuous litigation in the form of adversial proceeding and extending the case for years thereby depriving the debtor any benefit of a "fresh start" which is the intent of the Bankruptcy code.

The total misconduct of Bankruptcy Judges, panel trustees and their lawyers in this case is but an example of what the administration of the Bankruptcy Code has sunk to in this country. The title "Bankruptcy Judge" is truly misleading in that these individual are not neutral and detached judges as envisioned by the writers of our constitution. The "Bankruptcy Judges" employed today are nothing more than collection officers who think that their sole responsibly is to facilitate the collection of money and award legal fees to the legal community. The rights

of the debtor and debtor attorneys are minimized and the right and benefits of the panel trustee and their lawyers are maximized. Arguing and attempting to make a case with a Bankruptcy Judge is like arguing a case with the chief collection officer of the Internal Revenue Service.

The instant case that the petitioners present via this petition has had ten Bankruptcy and Magistrate Judges in two states and eight District Judges with a hand in it since the reopening of this case in 1998. The reopening was not done with any form of consent of the debtor nor were there any creditors to pay. The case was simply reopened in order that the panel trustee could hire a lawyer to start billing fees and go fishing for someone to pay thereby creating fees. This "Bankruptcy Collection Apparatus" operates like a giant octopus stretching its lengthy tentacles across the state lines in search of any rock that it can overturn for a fee. The panel trustee and their hired lawyers act like blind dogs in a fresh meat house and like the indomitable Eliott Spitzer in a bordelo. Meanwhile the debtor languishes awaiting their so-called "fresh start".

This instant "horror story" has its beginning in the Northern District of Texas where the Bankruptcy Judge Harold Abram son presided. His reputation in the general public has led to his being referred to unofficially as "Harold the Horrible". Likewise the Bankruptcy Judge in Florida, Catherine MeEwen was widely know by the general public as "Catherine

the Great" and Judge Thomas E. Baynes was affectionately know as "Elmer Fudd". In the Northern District of Texas, the current judge assigned to this case is know as Harlan Dewayne "Cooter" Hale. Judge Cooter is very proud of his unique name and his office answers the telephone as "Cooter's Office." Although these name are not official nor are they considered appropriate by the petitioners, they are mentioned here to demonstrate just what the general public thinks of these people. It is similar to the names that the commoners in medieval times gave to their rulers who gave them such grief while lording over them in the feudal system such as the King of England, Edward I, known as "Longshanks". The short of it is that the general public, namely business people who make this country go, tend to think that these so called judges know as little about business affairs as a pig does Sunday.

This appeal grew out of an adversary proceeding filed in the Florida Bankruptcy Court in 2002 where the judge claimed jurisdiction by "piggy back". Later the same judge also claimed jurisdiction because it was "very much core" even though the complaint only asked for "related to jurisdiction". The complaint was never amended therefore the burden is still theirs to prove jurisdiction as shown by the recent order issued by that bankruptcy court on December 6, 2007.(Appendix A)

The case of *In re Ashe*, 227 B.R. 457, (C.D. Cal

1998), an adversarial proceeding is required to reopen a closed bankruptcy case. In the base bankruptcy case of petitioner Virginia D. Hatch in the Texas Bankruptcy Court, only a one page motion was filed to reopen and it was not served on the petitioner. Therefore that case was never legally reopened and each and every act in the case from the alleged reopening is a "nullity". Clearly the United States Trustee reopening of the case was by "Ambush" as is spelled out in the explanation of core jurisdiction in this courts decision in the case of *Northern Pipeline Co. v. Marathon Pipeline Co,* 458 U. S. 50(1982). The case of *In re STN Enterprises, Inc.*, 73 B.R. 470, 483-485, 491-2, explains why the trustee complaint in both Florida and Texas are insufficient. Likewise the trustee motion for turnover under 11 USC 542 was improper as that motion could only be under USC 543 and against legal custodians of the property. Under 28 USC 157(c)(2), written consent for all parties was required. No consents were requested nor obtained.

Since the filing of the original writ of certiorari, the case of *In re Barnes*, 365 BR 1 (Bkrtcy D. Dist. Col. July 01, 2007) has come to the attention of the petitioners. In that case the defining of jurisdiction in bankruptcy court is ultra clear as to "ancillary jurisdiction" in a bankruptcy court and how Bankruptcy Rule 2004 comes into play. The court cites the precedent as being *Kokkonen v. Guardian Life Ins. Co. of America*, 511 U. S. 375, 114 S. Ct. 1673, 128 L. Ed.2d 391 (1994). Clearly *Kokkonen* allowed the bankruptcy judge in Texas to enforce the

petitioners discharge order of October 05, 1993 and the order granting judgment discharge closing the litigation forever and acting as res judicata, law of the case and collateral estoppel for all time. *Kokkonen* describes "ancillary jurisdiction."

> "The doctrine of ancillary jurisdiction.....citing *Fulton Nat. Bank of Atlanta v. Hozier* 267 U.S. 276, 280 (1925) "No controversy can be regarded as dependent or ancillary unless it has direct relation to property or assets actually or constructively drawn into the court's possession or control by the principal suit"....jurisdiction .based upon the fact that the court, in a prior decree... had expressly reserved jurisdiction to adjudicate claims against judicially conveyed property, and to retake and resell the property..."

Therefore, petitioner Virginia Hatch's final order of discharge dated October 05, 1993 and the final order in the adversary proceeding 95-3592 discharging the IRS claim in which the Bankruptcy Court did not "specifically retain any jurisdiction in the discharge order is the law of the case. Without such specific retention of jurisdiction for future challenges by any party all that can be done now is to honor the discharge and the agreed settlement order as filed in the adversary proceeding and the main bankruptcy case. *Kokkonen* further states:

> "No case of ours asserts, nor do we think the concept of limited federal jurisdiction permits us to assert, ancillary jurisdiction over any agreement that has as part of its consideration the dismissal of a case before a federal court."

The case of *Pelphrey v. United States*, 674 F2d 243 (4th Cir. March 22, 1982) clearly provides guidance as to what is necessary for a plaintiff to provide with the complaint under Federal Civil Procedure Rule 56, before a summary judgment such as was awarded to panel trustee Harpley (respondent) on February 06, 2002 and again on March 06, 2003 then again on June 20, 2003 so that he could sell 3,931 shares of stock certificates. On pages 246 and 247 *Pelphrey* provides that:

> "when a party supports a summary judgment motion with proper affidavits, the opposing party must set forth specific facts, in affidavit or otherwise, demonstrating that there is a genuine issue for trial." (citations omitted) Allegations contained in the pleadings do not create an issue sufficient to overcome a summary judgment motion supported by affidavits.

Respondent Harpley only attached the affidavits of the petitioners that said that petitioner Billy F. Hatch was the sole owner of the stock certificates. Harpley provided no affidavits from anyone nor any evidence to support his case. He only

exhibited the face of the stock certificates, concealing the back side of the certificates which show that his client the debtor Mayer had only a survivorship interest. *Phelphrey* further states on page 247:

> "First, the plaintiff in *Sartor v. Ark. NatGas*, 321 US 620, 64 S.Ct 724, 88 L. Ed. 967 (1944) That summary judgment was improper because affidavits were not legally sufficient to sustain a motion for summary judgment. The plaintiff in *Sartor* unlike Ms. Phelphrey Defendant's motion for summary judgment. Second, there had been no prior litigation in the present Pelphrey case nor has Ms. Phelphry presented any evidence rating a credibility issue."

Mayer the debtor and the client of respondent Harpley has sued the petitioners six times since 2000 claiming a interest in stock certificates. Mayer nor Harpley nor his lawyers, have ever provided one affidavit in support of their contentions.

The case of *Phelphrey* clearly disproves the claims made by the current bankruptcy judge in Florida on page Appendix 5 where she goes on about rule 7052 how she does not have to reduce her findings of fact and conclusions of law to a written order, but that she can slip slop around and let the court reporter take it all down and then since she banned the petitioners from attending all hearings, they can buy the order if they want one which

required purchasing the official transcript for the court reporter. In this instance the respondent and his lawyers have run up legal fees in excess of $157,000 (73% of total assets) which proves that the case was about nothing but collecting legal fees.

This argument is further supported by the case of *In re Blackwell Ex Rel, Estate of LG Services*, 279 B.R. 818 (Bkrtcy W.D. Tex June 27, 2002) which states that the burden in on the party seeking the action of filing the motion to follow the required procedural steps. The bankruptcy judge writing in *Blackwell,* clearly understands this court's ruling in *Marathon,* and respects the ruling as well as the statutory law that Congress passed in to law as a result of *Marathon.* Pity that his brothers in robes in Texas and Florida do not do likewise. In *Blackwell*, Judge Lief M. Clark states on page 820:

> "The second choice, by contrast, is consistent with the way waiver in the litigation context normally works. When a party has a duty to take certain steps in the course of litigation, fails to take those steps, waiver is a common presumed consequence of that failure. We have already noted that a party's failure to file a jury demand within the time specified in Rule 38 constitutes a waiver of that right to have a jury trial. A failure to timely respond to requests for admissions will result in the party's being deemed to have admitted everything requested-a defacto waiver of the

Right to contest the allegations., etc."

The case of *Capital Factors Inc. v. Kmart Corp.* 291 B. R. 818 (N. D. Ill. April 10, 2003) at pages 822 -3 clearly states that there is a split of authority over the legal issue of "equitable mootness" being used to let bankruptcy trustees off the hook when they have illegally sold assets or illegally paid prepetition unsecured creditors. The court's opinion in the case laid the guidelines for dealing with panel trustees such as the respondent in this case and the panel trustee in the Texas side of this case.

Mosser v. Darrow 341 US 267, 71 S. Ct. 680, 95 L.Ed 927 (1951) ruled that a trustee who does not do the job or allows the resources of the debtor or as in the case of petitioner Virginia D. Hatch's bankruptcy case, sucking into the illegal estate other assets had not performed their responsibilities.

Capital Factors shows the split of authority at 823:

> "the seventh circuit's admonition "that a bankruptcy proceeding is equitable does not give the judge using 11 USC 105a free-floating discretion to redistribute rights in accordance with his personal views of and fairness, however, enlightened those views might be."

822:

> "The U.S. Supreme Court has taught that any

grant of authority given to the bankruptcy courts under 105 must be exercised within the confines of the code" There is a split of authority in the courts regarding whether 105 authorizes bankruptcy courts to permit preplan payment of prepetition unsecured creditors based only on 105 authority.

Capital Factors lists four opinions for the practice on page 822 and eight opinions against such use of 105 on pages 822 and 823. Once payment is made then the court and the trustees hide behind the "equitable mootness" doctrine just as respondent Harpley and his lawyer Levine and finally Circuit Judge Rosemary Barkett did.

Capital Factors provides the only sensible discussion that the petitioners have found on equitable mootness and that it has been rightfully banished from use in the 7th Circuit Court of Appeals.

> "The term "equitable mootness" was anathematized by Judge Easterbrook in the case of *In re UNR Industries, Inc.* 20 F 3d 766, 768 (7th Cir. 1994) The Seventh banished the term "equitable mootness" from the local lexicon," because it is misleading: "there is a big difference between inability to alter the outcome (real mootness) none the less, the now nameless doctrine lives on and is perhaps best described as merely the age old principle that in

> formulating equitable relief a court must consider the effects of the relief on innocent third parties."

In the present case, a most egregious act exists where the current Bankruptcy Judge in Florida has boldly stated that she "does not have to nor does she intend to spell out just which side of the split of authority that she will come down on. Such fence riding on her part could lead to her ripping her britches.

This case of petitioners qualifies for an alternative ruling by this court granting the petitioners a "Hold on the Case" or a GVR Pending the Final Outcome of the main case 92-39896 in the Northern District of Texas. AP 02-0655 out of Florida Bankruptcy 94-11705 is a mere appendage or a gross deformity and there are now related state court issues currently pending all of which grew out of the illegal search and stop, search, seizure and illegal incarcerations of the petitioners on June 03, 1998 and September 30, 1998. Resolution of 92-39896 and the state court issues may not be final in 2008. *Lawrence v. Chatter*, 94-9323 (4th Cir. 1996) and *Stutson v. US*, 94-8988 (11th Cir 1996) citing *Henry v. City of Rock Hill* 376 US 776, collectively describe and explains GVRs. Consolidation of all pending cases with subject case would be the most economical route for all parties.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully Submitted,

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CERTIFICATE OF COUNSEL

We hereby certify as petitioners the foregoing petition for a re-hearing is presented in good faith and is not interposed for delay and in our judgment the said petition is well founded and limited to substantial grounds not previously presented.

Virginia D. Hatch

Billy Hatch
Petitioners, Pro Se

APPENDIX A1

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

In re: VINCENT J MAYER and
RAMONA S. MAYER, DEBTORS. Case No.8:94-bk-11705-CPM Chapter 7

ORDER OVERULING OBJECTION TO FIFTH SUPPLEMENT TO THE APPLICATION FOR COMPENSATION FOR DENNIS LEVINE & ASSOCIATES, P.A. ATTORNEYS FOR TRUSTEE

This case is before the Court on a contested matter arising from an objection to the Chapter 7 trustee's counsel's fifth supplement to its application for attorney's fees and costs ("Objection"). The Objection was filed by Billy F. Hatch and Virginia D. Hatch ("Hatches"). The Hatches hold no allowed claim against the estate in this case. At the time they filed the Objection, their sole connection to the case was that they are non-prevailing defendants in a related adversary proceeding brought by the Chapter 7 trustee to obtain a judgment compelling them to turn over property of the estate pursuant to 11 U.S.C. section 363. All appeals as of right after a trial on the merits in the adversary proceeding have been exhausted and resolved against the Hatches.

The issue presented, therefore, is simply this: As mere losing defendants to a turnover proceeding,

do the Hatches have standing to object to an award of compensation to the trustee's attorney? The answer is just as simple: No. The litigation between the Hatches and this estate is over. Because they are not real parties in interest-having a pecuniary or legally protected interest in the outcome of the issue, the Hatches have no standing in the litigation, and thus their position cannot be considered by this Court. Stated plainly, they cannot be heard to complain about the rule of a game in which they are not players.

Some brief background of the adversary proceeding, which is Adv. Pro. No. 8:02-ap-oo655-CPM, may be necessary to an understanding of why the Hatches now lack standing, whereas at some point in the life of the proceeding they may have legitimately argued they had standing to object to certain action taken by the Chapter 7 trustee in the case. (Footnote 1) At the time the debtors filed their petition herein, the Hatches held certificated and uncertificated stock in Wal-Mart stores, Inc. jointly with their daughter, one of the debtors in this case. The Hatches' involvement with the Chapter 7 trustee began when the trustee initiated the adversary proceeding complaint against them on August 16, 2002. In the proceeding, the Chapter 7 trustee sought and, after a trial on the merits, obtained a judgment confirming that the proceeds of the estate's one-third share of the Wal-Mart stock are property of the estate. (Footnote 2) See the Courts Finding of Fact

and Conclusion of Law and Final Judgment in Adv. Pro. No. 8:02-ap-0655-CPM, Docket Nos. 119 and 120. Appeals for the Eleventh Circuit were resolved in favor of the chapter 7 trustee and against the Hatches. The latest substantive appellate activity at the Eleventh Circuit was that court's denial on September 14, 2007, of the Hatches' motion for reconsideration of the court's July 30, 2007, order affirming the judgment in favor of the Chapter 7 trustee. (Footnote 3)

At all relevant times, the Hatches have argued (albeit unpersuasively to the trial court) that the titling of the Wal-Mart stock was intended as a devise and not an inter vivo gift to their daughter. They maintain, therefore, notwithstanding their losses on appeal, that the sale proceeds held by the Chapter 7 trustee belong to them, as both of them are still alive, and not to this estate. It is understandable, then, the Hatches have objected at every turn to disposition of the proceeds in any manner other then to them.

But now that the appeals as of right are exhausted, the Hatches have no legal entitlement to raise the Objection. Despite what the Hatches have argued, the courts which have weighted in on the dispute have ruled that, as a matter of fact and Florida law, the result of the Hatches' alleged, unsophisticated attempt at estate planning is not tantamount to a will but rather effected a outright conveyance of a

property interest. Consequently, the current posture of this case is that the Hatches have no pecuniary or direct legal interest in the outcome of the administration of this case have no legally protected interest that could be affected by the winding up of this case, and thus have no standing to object to an award of fees to the Chapter 7 trustee's attorney. Se *In re Lewis*, 2007 WL 2189343*3(10th Cir. BAPJuly 31, 2007); *In re FBN Food Services, Inc.*, 1995 WL 230958 (N.D. III. April 17, 1995); *In re E.S. Bankset, L.C., 321* B.R. 590, 596 (Bankr. S.D. Fla. 2005); *cf. In re Marlar*,252 B.R. 743 (8th Cir. BAP 2000) (discussing standing to appeal bankruptcy court orders). The only parties who do have standing to object are the Chapter 7 trustee and, because the Chapter 7 trustee's liquidation efforts resulted in funds that exceed what is necessary to pay administrative expenses and allowed claims, the debtors.

Though not at all necessary to a resolution of the issue at hand (especially given the Eleventh Circuit's disposition of the appeal of the final judgment in the adversary proceeding), the Court next addresses a constant theme of the Hatches that they have raised numerous times before and again raise in the Objection: whether it is necessary for a bankruptcy court to state in writing that its jurisdiction is core. (Footnote 4) Based on the reading of *In re Maurer*, 271 B.R. (Bankr. M.D. Fla. 2002), the Hatches contend that this Court either never had any jurisdiction to consider the adversary

proceeding or at least did not render a final judgment in the proceeding because it was without jurisdiction to do so. In *Maurer*, acknowledging a split among bankruptcy courts on the issue, my colleague Judge Michael G. Williamson held that the absence of a explicit core finding under 11 U.S.C. section 157(b)(3) deprives the bankruptcy court of jurisdiction when the parties failed to make a timely request for such a determination. (Footnote 5)

I need not decide at this time which side of the split identified by Judge Williamson I should follow. That is because this Court determines, as has been announced on the record in the past, that compliance with Rule 7052, of the Federal Bankruptcy Rules of Procedure, which adopts by reference Rule 52 of the Federal Rules of Civil Procedure, supplants any need for a written finding of subject matter jurisdiction. Rule 52(a) states in pertinent part. (a) Effect...It will be sufficient if the findings of fact and conclusions of law are stated orally and recorded in open court following the close of evidence. Finding of fact and conclusions of law are unnecessary on decisions of motions under Rule 12 or 56 or any other motion...

The complaint in the adversary proceeding clearly alleges the basis of the Court's jurisdiction as core: That the bankruptcy court has jurisdiction over the adversary pursuant to 28 U.S.C. sections 1334(b) and 157, and that the adversary proceeding is a core proceeding pursuant to 28 U.S.C. section 157(b)(2)(A) and (O). See Adv. Pro. No. 8:02-ap-00655-CPM,

Docket No. 1, at para. 6. In ruling against the Hatches on their motion to dismiss the complaint based on lack of jurisdiction, Judge Thomas E. Baynes, Jr.., my predecessor, stated orally in open court that "the court would go further and restate that it would deny any motion of the Hatches to dismiss on jurisdictional grounds as 28 U.S.C. 1334(d) establishes exclusive jurisdiction in this court and through the orders of the district court giving us jurisdiction over all the bankruptcy cases, as well as property of the estate and of the debtor." Adv. Pro. No 8:02-ap-00655-CPM Docket No. 30, at pg. Line 25 through pg. 5, lines 1-6. Further the Court stated "..we find all this to be very much core." Adv. Pro. No. 8:02-ap-00655-CPM, Docket No. 30, at pg. 5, lines 17-18 (emphasis added). These statements were recorded on open court and constituted the decision of the Court as to that stated attack on the complaint. The ruling complies with the requirement of 28 U.S.C. section 157(b)(3) that the "bankruptcy judge shall determine on the judge's own motion or on a timely motion of a party, whether a proceeding is a core proceeding..." Accordingly, long ago the Court make the determination of jurisdiction in a proper manner, and that determination is now and, absent a grant of certiorari review by the United States Supreme Court, will continue to be the law of this case and the adversary proceeding.

For the foregoing reasons, the Objection is overruled. The Clerk is directed to enter this order in both the case and the adversary proceeding that the

objection was filed in both. (Footnote 6) By separate order in the case, the Court will address the merits of the trustee's fifth application for an award of attorney's fees.

DONE and ORDERED that in Chamber at Tampa, Florida, on December 6, 2007.

/s/Catherine Peek McEwen
United States Bankruptcy Judge.

Footnote 1. A discussion of the myriad disputes raised both in the case and in the proceeding by the Hatches during the litigation with the chapter 7 trustee is not germane to the resolution of this latest contested matter. The details of the tortuous history of the adversary proceeding and this case--a history that both sides might describe as torturous, may be found in the voluminous record, a record comprising numerous pleading and papers, oftentimes voluminous papers with voluminous exhibits.

Footnote 2. Under Florida law, property held as joint tenants with right of survivorship are subject to alienation by each person in equal amounts. *Nationsbank, N.A. v. Coastal Utilities, Inc.*, 814 So. 2d 1227, 1229-30 (Fla, 4th DCA 2002). Furthermore, property held as joint tenants with right of survivorship may be reached by a creditor of one co-tenant. *See, e.g., Xayavong v. Sunny Gifts Inc.*, 891 So. 2d 1075, 1076 (Fla. 5th DCA 2004), *rev. denied*, 903 So. 2d 937 (Fla. 2005). The Hatches agreed that

Florida law applied. See Adv. Pro. No. 8:02-ap-00655-CPM, Docket No. 100, at page 10 (in which they concede "Florida has to be it"). Therefore, under Florida law and by the application of 11 U.S.C. section 541 defining property of the stated, the Chapter 7 trustee in this case had the right to one-third of the property at issue when the petition was filed.

Footnote 3. In the objection (at paginated page 9, which is actually the 10th page), the Hatches imply that they have sought or will seek certiorari from the United States Supreme Court. However, unless and until review is granted and a stay granted, this Court has jurisdiction to resolve all remaining issues in the case, including any an all issue relating to the completion of the administration of the case.

Footnote 4. The Hatches raise other issues in the objection. All have been dealt with in prior orders of the Court. Accordingly, the Court need not and will not re-address this issues. As an example, the Objection touches on the issue of whether the Hatches should have been granted a jury trial in the adversary proceeding. The last time the Court dealt with that issue was in connection with a motion for continuance by the Hatches. See the Court's order at Docket No. 142. Another example is the Hatches contention that the adversary proceeding raises non-core issues and thus could not be tried by the Court absent the parties' consent as provided in 11 U.S.C. section 157(c)(2). That argument is completely frivolous and likewise has already been dealt with-

most recently in the same order referred to in this footnote. As noted in the body of this order below, the complaint in the adversary proceeding invokes solely core jurisdiction, and that core jurisdiction was acknowledged on the record and in open court by my predecessor judge.

Footnote 5. Judge Williamson noted, however, that "there is substantial authority to the contrary holding that a party's failure to request a section 157(b)(3) finding waives any objection to the lack of such finding." *Maurer, 271* B.R. at 211n. 13.